

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

KAO LEE YANG, et al	§	CIVIL ACTION NO. H-18-161
	§	
	§	
v.	§	
	§	
CHERAMIE MARINE, LLC, et al.	§	

**DEFENDANTS TEICHMAN GROUP, LLC and
T&T OFFSHORE INC.'S NOTICE OF NONCOMPLIANCE**

Defendants Teichman Group, LLC and T&T Offshore, Inc., misnamed in Plaintiff's petition as "T&T Marine, Inc." (collectively, the "T&T Defendants"), file this Notice of Noncompliance.

I. NOTICE

The T&T Defendants inform the Court that, despite oral agreement to do so in open court, Plaintiff Marcus Wilson has not dismissed his post-removal suit filed in a Galveston state court, as directed by this Court on April 19, 2018 and reaffirmed in the Court's June 12, 2018 order denying Wilson's motion for reconsideration.

II. PROCEDURAL BACKGROUND

This case arises from the deaths of Blake Carlisle and Chi Tai Vong, which occurred in a crane accident at T&T Offshore's facility in Galveston on September 20, 2017.

Vong's putative wife, Kao Lee Yang, filed suit in the 164th District Court of Harris County, individually and on behalf of her two minor children, against T&T Defendants, Express Professional Services, Inc., and OSG Lightering, LLC (the "*Yang* lawsuit"). Carlisle's putative father, Marcus Wilson, filed a separate lawsuit against the T&T Defendants in the 190th District Court of Harris County (the "*Wilson* lawsuit").

Both cases were removed to federal court. The *Yang* lawsuit was removed first and assigned to this Court. The later-filed *Wilson* lawsuit was assigned to Judge Rosenthal. Both actions were consolidated into this Court. [Doc. 19].

On January 23, 2018, four days after the removal of both the *Yang* and *Wilson* lawsuits, Yang and Wilson both filed a third lawsuit in state court (the “post-removal suit”). Attorneys Anthony Buzbee and Chris Leavitt are counsel for plaintiffs in the *Yang* lawsuit, the *Wilson* lawsuit, and in the post-removal suit.

Yang later settled all claims with the T&T Defendants. Counsel for the plaintiffs then nonsuited all of Yang’s claims—but not Wilson’s claims—against the T&T Defendants in the post-removal suit in state court.

Wilson filed a motion to remand his removed case, which this Court denied. The T&T Defendants then filed a motion to enjoin Wilson’s post-removal suit. Plaintiff filed a response to the motion to enjoin, and the Court held a hearing. During the hearing, the Court asked Wilson’s counsel to dismiss the post-removal suit so that it would not be necessary to enjoin the suit.

The Court: We’re going to do this in one place at one time. And I’d be obliged if you’d dismiss the third case, because I don’t want to really enjoin the widow, but I will. . . .

Mr. Leavitt: To be fair . . . Ms. Yang . . . has no active case in state court. That case was nonsuited when the settlement was effectuated with all the various Teichman defendants.

[Doc. 58-2 at 8-9.]

When asked to clarify its ruling, the Court stated that it was suggesting that Wilson dismiss the post-removal lawsuit in the state court.

Mr. Leavitt: And to be clear, with regard to the crane company, the Court is instructing me – or ordering me, I guess that would be the proper thing to say –.

The Court: I feel that way. You can put “suggesting” in there, but the effect is the same.

Mr. Leavitt: Fair enough. I'm ordered to dismiss or nonsuit the state court case and add WL Crane and T&T Offshore as defendants into the current case before the Court. And I presume I don't need to file a motion for leave to do so?

The Court: No, you've just done it, and it's granted.

Mr. Leavitt: Certainly.

[Doc. 58-2 at 31.]

To avoid dismissal of the post-removal suit, Wilson filed a motion to reconsider the Court's ruling on the motion to enjoin state court proceedings. [Doc. 58.] This Court denied Wilson's motion to reconsider. [Doc. 61]. The Court further confirmed its order denying the motion to enjoin. [Doc. 61.] Such an injunction would be unnecessary if Wilson dismisses the post-removal suit.

Since the hearing, Wilson has not moved to dismiss the post-removal lawsuit in state court and, according to the state court's docket, it remains pending.

Respectfully submitted,

By: /s/ Susan Noe Wilson

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing document was served upon counsel of record accordance with the Federal Rules of Civil Procedure, via e-service, facsimile and/or certified mail, return receipt requested to the following on the 22th day of June 2018:

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